O/Iron & Steel/52

1952

File No. 52/52

Legal Department

G. BRANCH

Subject:—

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Opinion on the

Iron & Steel Control Order

1952

O/Iron & Steel/52

File No. 52/52

Gen. 194 e.

C-ONTENTS.

Legal Department File No. O.Iron & Steel
1 9 5 2.

Sr.No.	R.I./O.No.	Subject	Pages.
		Opinions on the Iron & Steel Control Order.	
1.	G-139 31-3-52.	Question whether the suit, if failed against Shri Patel is likely to succeed.	1-10
2.	G-493 26-9-52.	Question whether even though there has been a contravention, the offence is fit to be treated as technical.	11-12

SSD.
27.7.56. Sc.

Office of the R. L. A.

Even if the general conditions can be considered to have been lawfully attached to the price Schedules, the condition regarding retrospective effect is likely to be considered as ultra vires by the court in respect of sal es in which property in the goods has been transferred before the prices were revised. Besides it was not made clear in the allotment letter that the price payable would be the price ruling on the date of delivery and only because the price was approximately fixed it would not be possible to argue that no price was indicated. Presumably the price has been calculated at the old rates and the word 'approximately' was used for settlement regarding some minor difference in weight etc. The view taken by the Agricultural and Forests Department does not appear to be correct. The suit, if filed against Shri Patel is therefore not likely to succeed.

Id/- .....
29/3

Remembrancer of Legal Affairs.

U.R. to A. & F.D., NO. G- 139, dated the 31st March 1952.

SSD.
27.7.1956. 4c.

Office of the R. L. A.

Clause 8 of the Iron and Steel (Control on Production and Distribution) Order, 1941 provides that a person acquiring iron or steel in accordance with the provisions of clause 4 shall not use the Iron or Steel otherwise than in accordance with any conditions contained or incorporated in the document which was the authority for acquisition. One of the conditions of the permit under which acquisition was made in this case provides that the iron or steel the acquisition of which is authorised by this permit must not be used for any purpose other than the prupose mentioned in the permit. In the permit the purpose is mentioned as "Re-roofing the house on S. No. 660 at Dhobiwada, Broach as described in the application made by the party dated the 6th March 1950". As the C. I. sheets were used for re-roofing the house at Dhobiwada there was on the face of it no contravention of the condition mentioned above. But in view of the words "as described in the application of the party dated the 6th March 1950" used in the column mentioning the purpose, it will have to be construed as reading the words in the application against -- column 3 as incorporated in the entry 'purpose' in the permit. There is a mention in the application that the property will be put to residential use. The words 'residential' may have been used in this context as opposed to 'business or trade purpose'. The property is described in the application as the residential property of Dhobi Panch. Taking all these circumstances into consideration it appears that enen though there has been a contravention, the offence is fit to be treated as technical. In R.L.A's opinion No. G-343, dated the 4th October 1950, R.L.A. had opined in another case that unless there be evidence to prove that from the very inception the applicant had an intention to acquire iron and steel for a purpose other than the one stated in application and the permit, no liability can be attached.

Id/- .....
26/9
Remembrnacer of Legal Affairs.

SSD.
27.7.
4c. U.R. to P.W.D., No.G-493, dated the 26th September 1952.